

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

PHYSICIANS HEALTHSOURCE, INC., an Ohio corporation, individually and as the representative of a class of similarly-situated persons,

Plaintiff,

v.

ESAOITE NORTH AMERICA, INC. and JOHN DOES 1-10,

Defendants.

) Civil Action No.: 1:14-cv-2075-SEB-TAB

)

) **Judge Sarah Evans Barker**

) **Magistrate Judge Tim A. Baker**

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) **STIPULATION REGARDING**

) **WITHDRAWAL OF MOTION FOR**

) **CLASS CERTIFICATION**

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Plaintiff Physicians Healthsource, Inc. (“PHI”) and Defendant Esaote North America, Inc. (“Esaote”) hereby stipulate and agree as follows:

1. In accordance with *Damasco v. Clearwire Corp.*, 662 F.3d 891 (7th Cir. 2011), PHI filed a Motion for Class Certification (Doc. No. 5) shortly after the filing of the Complaint (Doc. No. 1) to prevent a settlement attempt that would moot the class allegations. At this time, the issues concerning the propriety of class certification have not been adequately developed and are not ripe for resolution by the Court.

2. Esaote promises that it will not offer to settle PHI's individual claim or submit an offer of judgment regarding PHI's individual claim in an effort to deprive the Court of jurisdiction, dismiss the entire action, or prevent the certification of a class. Esaote further promises that, should it make a settlement offer or offer of judgment to PHI, such offer will not be intended to deprive this Court of jurisdiction and will not be relied upon in any motion to dismiss this action.

3. In reliance on the above-stated promises, PHI promises to withdraw the Motion for

Class Certification with one day of the filing of this Stipulation.

4. The parties further agree that the withdrawal of the existing Motion for Class Certification (Doc. No. 5) will not preclude, bar, or otherwise limit PHI from filing a subsequent motion for class certification in this matter.

/s/ Eileen M. Hunter

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Counsel for Plaintiff Physicians Healthsource, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on April 27, 2105, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system. Notice of this filing will be sent by e-mail to all parties by operation of the Court's electronic filing system.

/s/ Matthew E. Stubbs